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FILED
DATE: January 22, 2010
12:16 O'Clock P.M.
JEANNE HICKS, CLERK
BY: Rachel Roehe
Deputy

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF YAVAPAI**

DIVISION: 6
HON. THOMAS B. LINDBERG
CASE NO. P1300CR20081339
JEANNE HICKS, CLERK
By: Rachel Roehe, Deputy Clerk
DATE: January 22, 2010

TITLE:
STATE OF ARIZONA
(Plaintiff)
vs.
STEVEN CARROLL DEMOCKER
(D-1)
COUNSEL:
Yavapai County Attorney
(For Plaintiff)
John Sears
107 North Cortez Street, Suite 104
Prescott, AZ 86301
Larry Hammond
Anne Chapman
OSBORN MALEDON, P.A.
2929 North Central Avenue, 21st Floor
Phoenix, AZ 85012
(For Defendant)

HEARING ON:	NATURE OF PROCEEDINGS	COURT REPORTER
Motion to Reconsider Release Conditions and Court's Order dated January 13, 2010 / Oral Argument Re: Motion to Compel		Roxanne Tarn

START TIME: 8:59 a.m.

APPEARANCES: Dennis McGrane, Deputy County Attorney
Jack Fields, Deputy County Attorney
Steven DeMocker, Defendant
John Sears, Counsel for Defendant
Larry Hammond, Counsel for Defendant
Anne Chapman, Counsel for Defendant

Counsel present argument.

Jamie Cicero is sworn and testifies.

The witness steps down.

~*~*~*~*~ Recess - 10:12 a.m. ~*~*~*~*~

At 10:25 a.m., Court reconvenes with the presence of all parties previously present.

Counsel present closing argument.

To the extent that this was a hearing on the request to modify or vacate the order entered on January 13, 2010, that order is **vacated**. The Court does not find that the order of the Court entered has demonstrated to be required so as to secure the Defendant's Sixth Amendment rights. The Court will strike the references that Mr. Butner made regarding having some other resolution of the matter and the Court will not consider that because he lacked the authority to make that suggestion.

Based upon this ruling, the Court will consider if there should be any reconsideration of release conditions. The Court takes that issue under advisement.

Pretrial Conference is set for **January 29, 2010, at 1:30 p.m.** to address pending issues.

~*~*~*~*~ Recess - 10:57 a.m. ~*~*~*~*~

At 11:09 a.m., Court reconvenes with the presence of Joseph Butner, Deputy County Attorney, appearing telephonically. Deputy County Attorney Jack Fields and Dennis McGrane are not present. Defendant and all Defense Counsel previously present continue to be present.

Counsel discuss the status of the case.

Counsel discuss the Defendant's Motion to Compel.

Counsel argue the motion.

~*~*~*~*~ Recess - 11:19 a.m. ~*~*~*~*~

At 11:36 a.m., Court reconvenes with the presence of all parties who were previously present prior to this recess.

Counsel continue to present argument regarding the Defendant's Motion to Compel.

IT IS ORDERED that the State shall provide the requested criminal history for those persons who they intend to call as witnesses at the time of trial. This shall be provided no later than Friday of next week.

The Court **ORDERS** the Defense to provide information on those items, by Bates number or CD, which their experts believe may have been altered. The Court **ORDERS** original copies of what the State received. With regard to the Bates numbers, the Court directs the parties to communicate with each other before next Friday to identify what the Bates numbers are on the cell phone information and that arrangements can be made so that a member of the Defense team can access the large maps that the Sheriff's Office is willing to allow them to access so that they can document in a fashion of photography or whatever other manner of documentation that they believe is necessary of those items. The Court will not require duplication of materials that are not possibly able to be duplicated, but if they are on large maps that can be digitally photographed, then the access that the State gives the Defense should accommodate such recording.

The Court **ORDERS** that the State shall provide to the Defense the Bates numbers of the documents upon which each expert is relying. This shall be accomplished by next Friday. With regard specifically to Mr. Echols, the State may supplement with Bates numbered identification of documentation upon which he will rely for trial by February 12. If the State has already disclosed what was relied upon but did not contain a Bates number, the State may simply refer the Defense to the items by the disclosure identifiers that already exist.

Defense Counsel addresses the request regarding DNA and fingerprinting for the State to identify what searching has been done on which databases and the swabs from those items. The Court **ORDERS** that this information shall be provided by January 29, 2010.

The items covered by number 7 of the original motion are **ORDERED** to be provided to the Defense no later than Friday, January 29, 2010.

The Court directs that the County Attorney staff make inquiry with the Sheriff's Office to determine what reports, if any, have been written regarding actions that have taken place subsequent to September 9, 2009, through today's date. The County Attorney staff shall make inquiry to see if there are some other languishing reports in terms of the investigation and that those be provided to the State, subject to disclosure upon the State's receipt of them by immediately copying them and disclosing to the Defense. The Court **ORDERS** that all reports shall be disclosed no later than February 6, 2010. For any that are not disclosed, the Court will likely preclude the information that is described by the report.

For the calls that have been obtained through December 31, 2009, the Court **ORDERS** that the State shall identify in some clear fashion which of those items the State intends to use. This shall be provided to the Defense no later than February 6, 2010. If the State intends to use any of the calls, it needs to identify those that occurred before December 31, 2009, no later than the same date. The deadline is February 13, 2010, for any that are dated January through February 13, 2010. They shall be identified by date, time, and if possible, some other mechanism of identifying what CD they are on, or else they may be precluded from any type of use at trial.

Court and Counsel discuss other pending issues not outlined in the motion such as the Kennedy letters and testing of items.

The State indicates that the Kennedy letters will be mailed today.

The information requested regarding the 14 items being tested **IS ORDERED** to be provided by January 29, 2010.

The Court confirms the Pretrial Conference set for next Friday. Discussion at that time will include the status quo of what the Sheriff's Office committed to do as far as the Defendant's access to materials. Counsel for the State may appear telephonically. The Defendant will be present personally.

END TIME: 12:16 p.m.

cc: VS (e)
Dean Trebesch (Contract Administrator) (PD) (e)
Division 6 (calendar) (under advisement)
YCSO (e)
Christopher DuPont, Trautman DuPont PLC, 245 W Roosevelt, Ste. A Phoenix, AZ 85003,
Counsel for Victims Charlotte and Katherine DeMocker